

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

BRIAN KNIGHT,

Plaintiff,

v.

Civil Action No. 1:20CV254

CANDICE McLAUGHLIN,

Defendant.

ORDER ADOPTING REPORT AND RECOMMENDATION [ECF NO. 35]

On November 9, 2020, Plaintiff Brian Knight ("Plaintiff"), by counsel, filed a Complaint alleging one count of defamation against pro se Defendant Candice McLaughlin ("Defendant"). Compl., ECF No. 1.

On May 19, 2021, Plaintiff filed a Motion for Default Judgment wherein he requests judgment against Defendant and a hearing to determine the damages amount pursuant to Rule 55(b)(2)(B) of the Federal Rules of Civil Procedure. ECF No. 21. Pursuant to 28 U.S.C. § 636 and the local rules, the Court referred the action to United States Magistrate Judge Michael J. Aloi for initial review. On June 8, 2021, the Magistrate Judge entered a Report and Recommendation ("R&R"), recommending that the Court grant the Motion for Default. ECF No. 24. The Court entered an Order Adopting the Magistrate Judge's R&R, granted Plaintiff's Motion for Default, and, pursuant to 28 U.S.C. § 636 and the local rules, referred the issue of damages to the Magistrate Judge. ECF No. 27.

KNIGHT V. McLAUGHLIN**1:20-CV-254****ORDER ADOPTING REPORT AND RECOMMENDATION [ECF NO. 35]**

Thereafter, the Magistrate Judge conducted a hearing on the matter and entered *Report and Recommendation Concerning Damages and Other Relief*, which is the subject of this Order. ECF No. 35.

The R&R informed the parties regarding their right to file specific written objections to the magistrate judge's report and recommendation. Specifically, the magistrate judge gave the parties fourteen (14) calendar days after being served with a copy of the magistrate judge's recommended disposition to file "specific written objections, identifying the portions of the Report and Recommendation to which objection is made, and the basis of such objection." The R&R further warned them that the "[f]ailure to file written objections . . . shall constitute a waiver of de novo review by the District Court and a waiver of appellate review by the Circuit Court of Appeals."

The docket reflects that the R&R was sent to the Defendant by certified mail, return receipt requested, on September 24, 2021, to: Candice McLaughlin, 8737 Great Cove Drive, Orlando, FL, 32819. ECF Nos. 35, 37. The envelope was returned marked as "return to sender, unclaimed, unable to forward" on November 3, 2021. ECF No. 37. Defendant previously accepted service of orders and pleadings filed throughout the pendency of this action. ECF Nos. 3, 8, 9, 17, 20, 23, 25, 29, and 30]. "Parties appearing pro se shall, at their first appearance, provide written notice of their phone

KNIGHT V. McLAUGHLIN**1:20-CV-254****ORDER ADOPTING REPORT AND RECOMMENDATION [ECF NO. 35]**

numbers, complete names, and addresses where all papers may be served upon them, and shall have a continuing duty to update this information in writing." LR Gen P. 83.03. Defendant provided the following information pursuant to Rule 83.03 by her first motion filed in this case: Candice McLaughlin, 8737 Great Cove Drive, Orlando, FL, 32819. ECF No. 4. To date, no objections to the R&R have been filed.

When reviewing a magistrate judge's R&R, the Court must review de novo only the portions to which an objection has been timely made. 28 U.S.C. § 636(b) (1) (C). Otherwise, "the Court may adopt, without explanation, any of the magistrate judge's recommendations" to which there are no objections. Dellarcirprete v. Gutierrez, 479 F. Supp. 2d 600, 603-04 (N.D.W. Va. 2007) (citing Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983)). Courts will uphold portions of a recommendation to which no objection has been made unless they are clearly erroneous. See Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

Because no party has objected, the Court is under no obligation to conduct a de novo review. Accordingly, the Court reviewed the R&R for clear error. Upon careful review, and finding no clear error, the Court **ADOPTS** the R&R [ECF No. 35]. The Court **GRANTS** judgment in favor of Plaintiff against Defendant in the amount of \$80,000.00 in damages, plus post-judgment interest under

KNIGHT V. MCLAUGHLIN

1:20-CV-254

ORDER ADOPTING REPORT AND RECOMMENDATION [ECF NO. 35]

28 U.S.C. § 1961, from the date of the judgment order until judgment is paid in full. The Court further **ENJOINS** Defendant from publishing the same or similar statements about Plaintiff that are the subject of this matter. Finally, *Motion for Leave to File Amicus Curiae Brief Opposing the Report and Recommendation's Injunction Recommendation, and to Participate in Oral Argument* is **DENIED** as moot. ECF No. 36.

The Clerk is **DIRECTED** to enter judgment in accordance with this Order. This action is **DISMISSED WITHOUT PREJUDICE** and **STRICKEN** from the Court's active docket.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to counsel of record via electronic means and to the pro se Defendant via certified mail, return receipt requested.

DATED: March 17, 2022

/s/ Thomas S. Kleeh
THOMAS S. KLEEH
UNITED STATES DISTRICT JUDGE